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**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641

Examiner: Palabrica, R.J.

July 25, 2011

The Commissioner for Patents
Alexandria, VA 22313-1450

PETITION to the COMMISSIONER

Pursuant to 37 C.F.R. 1.181

1. This Petition is made by the pro se Appellant pursuant to 37 C.F.R. 1.181 to the Director of Patents. This Petition is made to invoke his supervisory authority to correct a wrongful situation involving a Decision by Examiner Palabrica [Exhibit "A", attached, hereinafter "Decision"] dated May 27, 2011.

2. Pursuant to 37 C.F.R. 1.181, there is no fee. This Petition is reasonable based upon the reasons stated below and the facts as discussed in the Declaration supporting this Petition, and upon the law of the United States of America which requires truth in federal documents.

3. In the discussion below, reference is made to Declaration of pro se Appellant, Dr. Mitchell Swartz (hereinafter called the "Swartz Declaration") dated July 25, 2011, and the previous one dated April 22, 2003, and the Declaration of Dr. Brian Ahern dated December 2010.

4. In the discussion below, reference is made to "APPELLANTS NOTICE TO THE BOARD OF FALSE STATEMENTS IN AN OFFICE COMMUNICATION DATE 11/18/03" filed November 23, 2003. A copy is attached for convenience of the Commissioner and the Judges in the federal and state courts that will shortly receive this, along with the members of the US Congress who have wondering why, and how, energy production --made SPECIAL by the Board-- has been essentially obstructed by Dr. Palabrica and Mr. Carone and their associates.

5. Said "NOTICE TO THE BOARD OF FALSE STATEMENTS IN AN OFFICE COMMUNICATION DATE 11/18/03" has been ignored and the Appeal Briefs held up away from the Board of Patent Appeals ... by none other than Dr. Palabrica who has just "ruled upon his own disingenuities. This is a cover-up. It has the appearance of impropriety.

6. As a result, the present Decision involves the appearance of impropriety and salient obstruction of justice. Examiner Palabrica's false statements comprise a woven web of his false statements.

7. This Petition is an attempt at judicial economy. Thus, it is an opportunity for the Commissioner to consider this matter before the appropriate, now needed, judicial venues are addressed.

8. GRAVAMEN: There has been systematic false statments by the Office to obstruct each and every patent application of the Appellant in this field. Appellant has given demonstrations and lectures at MIT, DTRA, SPAWARS and NRL, just to name a few of the locations. All of whom have entered into serious, scientific discussions with Appellant regarding the science and engineering involving the present invention. By contrast, there has been nothing but obstruction by Examiner Dr. Ricardo Palabrica as the Declarations, including that by Dr. Brian Ahern (ret. USAF) demonstrate. Dr. Palabrica's arguments are almost always disingenuous and in the present flawed "Decision", he odiously rules upon himself ... for himself.

9. BACKGROUND: In the above-entitled application, the Examiner has been non-responsive and obstructive. As the Swartz Declaration states,

"Pursuant to In re Oetiker, I did respond in full to each of the Examiner's points, in considerable detail. My meticulous effort has again been ignored even though my arguments were persuasively made, proven by the record, and based upon a firm foundation and support of evidence.

My Appeal Briefs have simply been ignored by the Examiner and Office. The Office has failed to cite my arguments, and has failed to read and address my arguments precisely. It is the OFFICE which has been unresponsive to my arguments even though they were fully discussed in significant detail in the previous Communications to the Examiner."

10. BACKGROUND: In the above-entitled application, and the present Decision, the Examiner has been systematically disingenuous, and now self-serving. As the Swartz Declaration states,

"Ignored in the Decision is the fact that the first "Notice of Non-Compliant Appeal Brief" had false statements.

Ignored in the Decision is the fact that the Second Notice of Non-Compliant Appeal Brief was also disingenuous, with more than twelve false statements. These were discussed and proven in considerable detail - but ignored in the, obviously self-serving, Decision. For example, in the ignored pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

As another example, said Notice ignored page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101. The submitted Appeal Brief WAS Compliant. The facts demonstrate (vide supra) that there were more than a dozen errors and falsehoods in the Second Notice. The facts demonstrate that the Appellant's response and Declarations were ignored.

The third notice had more than eight false statements. There was no lack of Compliance, only further disingenuous complaints and an ignoring by the Office of my Declarations, responses, and submitted Brief. As one example, specifically ignored was my request to know the basis which allows the Examiner to dismiss the Argument that, "Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5."

8. As another example, also ignored was my request to know the basis which allows the Examiner to dismiss the Argument that, "Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C.

112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101."

FIRST FALSE STATEMENT IGNORED BY DR. PALABRICA

11. Mr. Carone purports that there is "subject matter not found in the specification" and that the Appellant purportedly did not respond to his (non-specific) previous citation. The Office's Communication inaccurately states,

"1. The Summary still includes subject matter not found in the specification (see item b of previous Office Action)."

THE TRUTH - All subject matter was discussed in the specification

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the subject matter was discussed in the specification.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. For example, in said Notice, the Appellant said on page 2,

"The Office's notification (of 8/28/03) states,

"The Summary includes subject matter not found in the specification (see page 7, last three paragraphs)."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 4 through 7 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication, once again, has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention was already before the Board. The Appellant has a right to appeal -- checks were cashed by Commissioner of Patents--. The Appellant has a right to present it to the Board -- even if it involves disingenuous and corrupt actions by the Examiner.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

COUNT #1 - Mr. Michael Carone Made a False Statement of Federal Document for Obstruction of Justice

COUNT #2 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #3 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

SECOND FALSE STATEMENT IGNORED BY DR. PALABRICA

12. The Office's Communication inaccurately states,

"2. The recitation of Issues is still improper (see item c of the previous OA)."

THE TRUTH - the recitation of Issues is proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the recitation of Issues is indeed proper. Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"c. The recitation and scope of Issues is improper. MPEP 1206 states that each stated issue should correspond to a separate ground of rejection which the appellant washes the Board to review. The statement of issues should not include any argument concerning the merit of the issues. For example, a proper way of phrasing an issue is as follows: 'Whether claims 1, 5 8, 10 14 and 21 30 are unpatentable under U.S.C. 101 because the claimed invention is inoperative and therefore lacks unity.' Applicant improperly includes other issues not relevant to the grounds of rejection used by the examiner, e.g., U.S. Constitution."

"The Applicant has corrected this as requested. The Applicant has removed the offending references to the " U.S. Constitution." and reserves his rights to take the Constitutional issues to the Federal Court, First Circuit by this unconstitutional action of the Office and/or Board censoring the very document which enables the Office."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 8 through 9 in the Appeal Brief, as said Notice stated on pages 3 and 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The pro se Appellant has a right to present HIS issues to the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Sixth, in the legal system, it is Appellant who submits the Appeal - and not the Office. The Examiner is demanding that HE fashion the Appellant's issues. For some reason, the Office and Examiner now demand to control the very thought, the very Appeal, the very issues, and the Arguments of such, as the Examiner throttles the Appeal Briefs after cashing the checks. This behavior is unlawful, and consistent with unConstitutional tyranny, and has much more than an appearance of impropriety.

COUNT #4 - Mr. Michael Carone vs *pro se* Appellant - Obstruction of Justice

COUNT #5 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #6 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

THIRD FALSE STATEMENT IGNORED BY DR. PALABRICA

13. The Office's Second Communication invents a new argument to harass the Appellant and inaccurately states,

"The section still contains issue not relevant to the examiner rejections. Note that the Examiner provided in the previous Office Action an example and cited the specific section in the MPEP (i.e., 1206) that discusses of how to properly phrase an Issue."

THE TRUTH - every issue is relevant to the examiner rejections

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because each and every issue is relevant to the rejections.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Third, Appellant respectfully disputes this because each and every issue relevant to the Examiner's rejections was already previously before the Board.

Fourth, Appellant notes that this is a new argument and since Appellant did not add any new issues, it cannot be true.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

COUNT #7 - Mr. Michael Carone's False Statement on Federal Document - Obstruction of Justice

COUNT #8 - Misprision of Felony By Examiner Ricardo Palabrica

COUNT #9 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

FOURTH FALSE STATEMENT IGNORED BY DR. PALABRICA

14. The Office's Communication inaccurately states,

" The claimed "operability" of the invention is not a 35 U.S.C, 112, first and second paragraph issues, but a 35 U.S.C. 101 issue. "

THE TRUTH - 35 U.S.C. 101 involves utility and not operability

The Office is wrong for at least four reasons. First, Appellant respectfully disputes this because this is nonsense. For ten years the Office has cited "operability" pursuant to 35 U.S.C, 112, first paragraph issues. All of a sudden, Mr. Carone changes the the Office's arguments over more than a decade in this matter. This is egregious without a clear substantive basis for the paroxysmal change.

Second, Appellant respectfully disputes this because a 35 U.S.C. 101 issue involves utility and not "operability". Appellant discussed this in detail. Attention of the Court, Board, and Commssioner is now directed to where it was discussed in detail on pages 111 through 119 in the Appeal Brief. The effort of the Appellant was ignored. Where is the Office's response?

Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The pro se Appellant has a right to present HIS issues to the Board.

Fourth, Appellant respectfully disputes this purported change by the Office because this is a new argument of the Office, and should be in the Argument section of the Office's response.

COUNT #10 - Mr. Michael Carone Disingenuous Statement on Federal Document for Obstruction of Justice

COUNT #11 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #12 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

FIFTH FALSE STATEMENT IGNORED BY DR. PALABRICA

15. The Office's Communication inaccurately states,

" Notwithstanding this, the statements regarding the 35 U.S.C. 102 and 103 rejections are still improper because the specific prior art used as basis for the unpatentability determination have not been identified. "

THE TRUTH - the specific prior art has been identified

The Office is wrong for at least three reasons. First, Appellant respectfully disputes this because the specific prior art was identified in the Appeal Brief.

Second, in fact, attention of the Court, Board, and Commssioner is now directed to where it was discussed on pages 72 through 100 in the Appeal Brief, and as cited in said Notice stated on page 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

COUNT #13 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #14 - Misprision of Felony By Examiner Palabrica

COUNT #15 - Misprision of Felony By Palabrica's Supervisor(s) and Commissioner of Patents

SIXTH FALSE STATEMENT IGNORED BY DR. PALABRICA

16. The Office's Communication inaccurately states,

*"3. The Grouping of Claims states that claims do not stand or fall together."
"However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."*

THE TRUTH - there is not discussion in the Arguments section of why EACH claim is considered separately patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office to this matter. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra*, *vide infra*).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The pro se Appellant has a right to present HIS issues to the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

COUNT #16 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #17 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #18 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

SEVENTH FALSE STATEMENT IGNORED BY DR. PALABRICA

17. The Office's Communication inaccurately states,

"4. The Arguments section is still incomplete and improper.

THE TRUTH - The Arguments section is complete and proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the Arguments section is complete and proper.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101.

Fourth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fifth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The pro se Appellant has a right to present HIS issues to the Board.

Sixth, Appellant notes that said confabulation suggests obstruction of justice under color of law by the Office.

COUNT #19 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #20 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #21 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

EIGHTH FALSE STATEMENT IGNORED BY DR. PALABRICA

18. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

" However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

THE TRUTH - there is discussion in the Arguments section of why EACH claim is considered separately patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

19. In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The pro se Appellant has a right to present HIS issues to the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

COUNT #22 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #23 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #24 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

NINTH FALSE STATEMENT IGNORED BY DR. PALABRICA

20. The Office's Communication inaccurately states,

"Not all grounds for rejection have been addressed, e.g., new matter rejection under section 9 of the Final Office Action."

THE TRUTH - the purported "new matter rejection" was identified and discussed

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because the purported "new matter rejection" was identified and discussed on pages 3 and 4 in said Notice.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003.

In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"e. The discussion of applicant's contentions in the Argument section is improper.

MPEP states, for example, that for each rejection under 35 U.S.C., first paragraph, the argument shall specify the errors in rejection and how said first paragraph is complied with, including as appropriate, how the specification and drawings, if any, a) describe the subject matter defined in each of the rejected

claims; b) enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims; and c) set forth the best mode contemplated by the inventor of carrying out the invention. Applicant does not conform to this requirement of cited example of showing how his application complies with the first paragraph"

Applicant has corrected this, as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

21. In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commssioner is now directed to where it was discussed on pages 68 through 78 in the Appeal Brief, as said Notice stated on pages 3 and 4. The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003 and on pages 68 through 78 in the Appeal Brief. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Fifth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

COUNT #25 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #26 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #27 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

TENTH FALSE STATEMENT IGNORED BY DR. PALABRICA

22. The Office's Communication inaccurately states,

"Since the above deficiencies have been listed in the 8/29/03 Office Action, Applicant's failure to correct them is no longer considered inadvertent."

THE TRUTH - there are no "deficiencies"

THE TRUTH - Applicant did NOT failure to correct them

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because there are no "deficiencies".

Second, Appellant respectfully disputes this because Applicant did NOT failure to correct them.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because this was discussed on pages 2 though 5 of said Notice.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 2 though 5.

COUNT #28 - False Statement by Michael Carone on Federal Document Sent through Mail for Obstruction of Justice

COUNT #29 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #30 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

ELEVENTH FALSE STATEMENT IGNORED BY DR. PALABRICA

23. The Office's Communication inaccurately states,

"In addition, it is noted that claim 14 is not included in Appendix A of the revised brief."

THE TRUTH - Exhibits were Submitted and Ignored

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Examiner asked him to correct this.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"f. Appendix A is incorrect because some claims are recited differently from those finally rejected, e.g., claims 1 and 10."

The Applicant has put the correct claims in Appendix "A". Appellant attempted to call the Examiner who refused to address this matter to explain what he was speaking of. The Examiner was reminded that this was for the Board. He refused to discuss it.

The claims are those claims before Final. Attached is copies of the Post Cards stamped by the Office proving receipt [Exhibit "B", also Appendix "C"].

Applicant also presented amendments after Final to comply with the Examiner's suggestions/comments. Attached is the Post Card stamped by the Office showing receipt [Exhibit "B"]. This Exhibit proves Amendments were submitted after Final, and were timely received by the Office.

The claims before Final are in Appendix "A".

The amendments submitted after Final are in Appendix "B". "

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commssioner is now directed to Appendix A, as said Notice stated on page 5.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Fourth, where is the Office's response to Exhibit "B"?

Fifth, in the light of the above, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

COUNT #31 - Mr. Michael Carone Made a False Statement of Federal Document for Obstruction of Justice

COUNT #32 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #33 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

TWELFTH FALSE STATEMENT IGNORED BY DR. PALABRICA

25. The Office's Communication inaccurately states,

"Also, it is noted that Appendix B is mischaracterized as Amendments Entered After Final. "

"To avoid confusion with the claims under Appeal, Appendix B should be deleted."

THE TRUTH - The Office Has Made Two Opposite Dictates of Appendix B

The Office is wrong for at least four reasons. First, the Office's behavior in this matter is chaotic. As one example, this demand in the Second Communication is opposite the Office's demand in the First Communication.

Second, Appellant respectfully disputes this because Appellant already addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 2,

"The Office's notification states,

"a. The statement of Status of Amendments is improper. Any arguments that the applicant may wish to make regarding these amendments should be discussed in Argument section rather than in this section. There is no Appendix B. contrary to the statement in this section."

Appellant has corrected the statement of the Status of Amendments.

Appendix B is corrected."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commssioner is now directed to where it was corrected on page 3 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03 chaotically and unfairly demands exactly the opposite of the first Office Communication.

Third, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to create and then submit new briefs in triplicate. The Commissioner of Patents cashed the checks.

Fourth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

COUNT #34 - Mr. Michael Carone Made a False Statement of Federal Document for Obstruction of Justice

COUNT #35 - Misprision of Felony By Examiner Dr. Ricardo Palabrica

COUNT #36 - Misprision of Felony By Dr. Palabrica's Supervisor(s) and the Commissioner of Patents

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26. Once again, Appellant submits that if the Office must rely upon reference to art cut of a cloth other than this specification and using so much disingenuity, then their position must indeed be rather weak, and in turn, should dictate allowance of the present invention.

27. NOTA BENE: The Commissioner and all parties involved in this obstruction of justice and attempted usurpation of civil and Constitutionally-protected rights are, hereby advised there has been a systematic failure of the Examiner to address the facts, and the failure of the supervisors to show some responsibility to address the Examiner's disingenuities. This has serious implications including obstruction of justice, and from failure to address the Declarations [In re Gazave, 379 F.2d 973, 978, 154 USPQ 92, 96 (CCPA 1967); In re Chilowsky, 229 F.2d 457, 462, 108 USPQ 321, 325 (CCPA 1956); In Re JOLLES, 628 F.2d 1322, 206 USPQ 885 (CCPA 1980)], and systematic violations by the Examiner (and his supervisors) of 18 U.S.C. §1001 (False Statements to Agents of the U.S. Government), 18 U.S.C. §1341 (Mail Fraud), 18 U.S.C. §241 (Conspiracy Against Civil Rights), 18 U.S.C. §§1961-68 (RICO Act), and 50 U.S.C. 32(a), 34.

WHEREFORE, since applicant did properly respond to each Notice of Non-Compliance, and did submit compliant Appeal Briefs, the Commissioner should immediately act on this Petition and use supervisory authority to immediately reinstate the above-entitled application and forward the Appeal Briefs received January 28, 2004 to the Board, consistent with justice and the US Constitution to which the Director has purportedly taken an Oath.

respectfully submitted,

Mitchell R. Swartz, ScD, MD, Appellant, *pro se*

CERTIFICATE OF MAILING [37 CFR 1.8(a)]

July 25, 2011

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to
The Commissioner for Patents

Alexandria, VA 22313-1450
on the date below.

Thank you.

Sincerely,

July 25, 2011

M.R. Swartz

RECEIVED
CENTRAL FAX CENTER

JUL 25 2011 19

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no. 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no. 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

July 25, 2011

The Commissioner for Patents
Alexandria, VA 22313-14501

DECLARATION OF Dr. Mitchell Swartz

SUPPORTING PETITION to the COMMISSIONER

I, Mitchell R. Swartz, declare that I am a citizen of the United States of America and the inventor of the invention described in the above-entitled application.

1. I have a background in electrical engineering, physics, material science, electrochemistry, and medicine, and have worked in these fields for more than thirty years. I have also worked on medical and scientific experimental projects at the Massachusetts Institute of Technology, Massachusetts General Hospital, Harvard Medical School, and elsewhere.

2. I have received an unfair and wrongful Decision [Exhibit "A", attached, hereinaftercision"] dated May 27, 2011.

3. The Decision is improper, egregious, and should be immediately reconsidered and changed to correspond to the docket, and to the already submitted compliant Briefs.

4. Ignored in the Decision is the fact that the first "Notice of Non-Compliant Appeal Brief" had false statements.

5. Ignored in the Decision is the fact that the Second Notice of Non-Compliant Appeal Brief was also disingenuous, with more than twelve false statements. These were discussed and proven in considerable detail - but ignored in the, obviously self-serving, Decision. For example, in the ignored pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

6. As another example, said Notice ignored page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101. The submitted Appeal Brief WAS Compliant. The facts demonstrate (vide supra) that there were more than a dozen errors and falsehoods in the Second Notice. The facts demonstrate that the Appellant's response and Declarations were ignored.

7. The third notice had more than eight false statements. There was no lack of Compliance, only further disingenuous complaints and an ignoring by the Office of my Declarations, responses, and submitted Brief. As one example, specifically ignored was my request to know the basis which allows the Examiner to dismiss the Argument that, "Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5."

8. As another example, also ignored was my request to know the basis which allows the Examiner to dismiss the Argument that, "Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101."

9. Pursuant to In re Oetiker, I did respond in full to each of the Examiner's points, in considerable detail. My meticulous effort has again been ignored even though my arguments were persuasively made, proven by the record, and based upon a firm foundation and support of evidence.

10. My Appeal Briefs have simply been ignored by the Examiner and Office. The Office has failed to cite my arguments, and has failed to read and address my arguments precisely. It is the OFFICE which has been unresponsive to my arguments even though they were fully discussed in significant detail in the previous Communications to the Examiner.

I declare that all statements herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Signature of Inventor:

Mitchell R. Swartz, ScD, MD, pro se
Weston, Massachusetts
July 25, 2011



UNITED STATES PATENT AND TRADEMARK OFFICE
COMMISSIONER FOR PATENTS
P.O. Box 300
Arling House, Virginia 22110-0300
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,691	12/26/2000	Mitchell R. Swartz		4269
MPO 06/27/2011 Mitchell R. Swartz, ScD, MD, EE 16 Pembroke Road Weston, MA 02493				
			EXAMINER	
			PALABRICA, RICARDO J	
			ART UNIT	PAPER NUMBER
			3663	
			MAIL DATE	DELIVERY MODE
			05/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

EXHIBIT "A"

Continuation Sheet (PTO-303)

Application No. 09/748,691

Continuation of 11, does NOT place the application in condition for allowance because: The reasons are the same as those stated in the 4/15/03 Advisory Action.

JUL 25 2011

**RESPONSE UNDER 37 CFR 1.116
EXPEDITED PROCEDURE
EXAMINING GROUP 3641**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

For: METHOD TO CONTROL REACTIONS
INVOLVING ISOTOPIC FUEL
WITHIN A MATERIAL USING
ORTHOGONAL ELECTRIC-FIELDS

Serial no: 09/ 748,691

Filed: 12/26/2000

This is a division of Serial no: 07/ 760,970

Filed: 09/17/1991

Group Art Unit: 3641
Examiner: Palabrica, R.J.

November 23, 2003

Office of the Clerk
Board OF PATENT APPEALS
c/o The Commissioner for Patents
Alexandria, VA 22313-1450

EXHIBIT "B"

**APPELLANT'S NOTICE TO THE BOARD
OF FALSE STATEMENTS IN AN OFFICE
COMMUNICATION DATE 11/18/03**

1. This is Appellant's Response to the Office's communication dated 11/18/03 (cover as Exhibit "A", attached). Said communication is stamped and signed by Michael Carone.
2. Said office communication purports that there are errors in the Appeal Brief dated Sept. 17, 2003 of the above-entitled action. The Appellant respectfully disputes each of these. The Appellant will demonstrate that it is Mr. Carone who has made a series of egregious errors which the Appellant will orensically detail below.
3. In response to the Office's second Communication, attached hereto is Appellant's Petition to the Commissioner, Motion for Recusal and Motion for Sanctions. tk
4. In the following, the Communication from the office dated November 18, 2003 (Exhibit "A") will hereinafter, be referred to as the "Communication of 11/18/03" or the "second Office Communication".

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Also, in the following, the Appellant will refer to his previously submitted "Notice of Compliance by Appellant" which was dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Notice".

In addition, in the following, the Appellant will refer to his previously submitted (in triplicate) Appeal Brief dated Sept. 17, 2003. Hereinafter, this will be referred to as the "Appeal Brief".

Also, previously, Appellant received a communication from the office dated 8/28/03 (copy attached as exhibit "B"). Hereinafter, this will be referred to as the "Communication of 8/28/03" or the "first Office Communication".

THE OFFICE'S FIRST FALSE STATEMENT

5. Mr. Carone purports that there is "subject matter not found in the specification" and that the Appellant purportedly did not respond to his (non-specific) previous citation. The Office's Communication inaccurately states,

"1. The Summary still includes subject matter not found in the specification (see item b of previous Office Action)."

THE TRUTH - All subject matter was discussed in the specification

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the subject matter was discussed in the specification.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. For example, in said Notice, the Appellant said on page 2,

"The Office's notification (of 8/28/03) states,

"The Summary includes subject matter not found in the specification (see page 7, last three paragraphs)."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 4 through 7 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no

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accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication, once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention was already before the Board. The Appellant has a right to present and for it to be concise, clear and accurate before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

THE OFFICE's Second FALSE STATEMENT

6. The Office's Communication inaccurately states,

"2. The recitation of Issues is still improper (see item c of the previous OA)."

THE TRUTH - the recitation of Issues is proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the recitation of Issues is indeed proper.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003.

In said Notice, the Appellant said on pages 3 and 4,

"The Office's notification states,

"c. The recitation and scope of Issues is improper. MPEP 1206 states that each stated issue should correspond to a separate ground of rejection which the appellant washes the Board to review. The statement of issues should not include any argument concerning the merit of the issues. For example, a proper way of phrasing an issue is as follows: 'Whether claims 1, 5 8, 10 14 and 21 30 are unpatentable under U.S.C. 101 because the claimed invention is inoperative and therefore lacks unity.' Applicant improperly includes other issues not relevant to the grounds of rejection used by the examiner, e.g., U.S. Constitution."

"The Applicant has corrected this as requested. The Applicant has removed the offending references to the " U.S. Constitution." and reserves his rights to take the Constitutional issues to the Federal Court, First Circuit by this unconstitutional action of the Office and/or Board censoring the very document which enables the Office."

The Applicant has corrected this, and removed the citation from this section."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

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In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on pages 8 through 9 in the Appeal Brief, as said Notice stated on pages 3 and 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Sixth, in the legal system, it is Appellant who makes the Appeal - and not the Office. The Office is demanding that IT fashion the Appellant's issues. For some reason, the Office now demands to control the thought, the Appeal, the issues, and the Argument for reasons unclear as of this date. That is unlawful and consistent with tyranny, and has much more than an appearance of impropriety.

THE OFFICE's Third FALSE STATEMENT

7. The Office's Second Communication invents a new argument to harass the Appellant and inaccurately states,

"The section still contains issue not relevant to the examiner rejections. Note that the Examiner provided in the previous Office Action an example and cited the specific section in the MPEP (i.e., 1206) that discusses of how to properly phrase an Issue."

THE TRUTH - every issue is relevant to the examiner rejections

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because each and every issue is relevant to the examiner rejections.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra, vide infra*).

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Third, Appellant respectfully disputes this because each and every issue relevant to the Examiner's rejections was already before the Board previously. The Appellant has a right to be concise, clear and accurate before the Board.

Fourth, Appellant notes that this is a new argument, and since Appellant did not add any new issues, it cannot be true.

Fifth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

THE OFFICE's Fourth FALSE STATEMENT

8. The Office's Communication inaccurately states,

"The claimed 'operability' of the invention is not a 35 U.S.C. 112, first and second paragraph issues, but a 35 U.S.C. 101 issue."

THE TRUTH - 35 U.S.C. 101 involves utility and not operability

The Office is wrong for at least four reasons. First, Appellant respectfully disputes this because this is nonsense. For ten years the Office has cited "operability" pursuant to 35 U.S.C. 112, first paragraph issues. All of a sudden, Mr. Carone changes the the Office's arguments over more than a decade in this matter. This is egregious without a clear substantive basis for the paroxysmal change.

Second, Appellant respectfully disputes this because a 35 U.S.C. 101 issue involves utility and not "operability". Appellant discussed this in detail. Attention of the Court, Board, and Commissioner is now directed to where it was discussed in detail on pages 111 through 119 in the Appeal Brief. The effort of the Appellant was ignored. Where is the Office's response? Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fourth, Appellant respectfully disputes this purported change by the Office because this is a new argument of the Office, and should be in the Argument section of the Office's response.

THE OFFICE's Fifth FALSE STATEMENT

9. The Office's Communication inaccurately states,

"Notwithstanding this, the statements regarding the 35 U.S.C. 102 and 103 rejections are still improper because the specific prior art used as basis for the unpatentability determination have not been identified."

THE TRUTH - the specific prior art has been identified

The Office is wrong for at least three reasons. First, Appellant respectfully disputes this because the specific prior art was identified in the Appeal Brief.

Second, in fact, attention of the Court, Board, and Commssioner is now directed to where it was discussed on pages 72 through 100 in the Appeal Brief, and as cited in said Notice stated on page 4. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 4 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

THE OFFICE's Sixth FALSE STATEMENT

10. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

"However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

THE TRUTH - there is not discussion in the Arguments section of why EACH claim is considered separately patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

"The Office's notification states,

"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."

The Applicant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office to this matter. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (*vide supra*, *vide infra*).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

THE OFFICE's Seventh FALSE STATEMENT

11. The Office's Communication inaccurately states,

"4. The Arguments section is still incomplete and improper.

THE TRUTH - The Arguments section is complete and proper

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because the Arguments section is complete and proper.

Second, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Third, Appellant respectfully disputes this because it was discussed on pages 11 through 61 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on pages 62 through 71 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on pages 72 through 89 of the Argument section for 35 U.S.C. 102, and then on pages 90 through 110 of the Argument section for 35 U.S.C. 103, and then on pages 111 through 119 of the Argument section for 35 U.S.C. 101.

Fourth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fifth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Sixth, Appellant notes that said confabulation suggests obstruction of justice under color of law by the Office.

THE OFFICE's Eighth FALSE STATEMENT

12. The Office's Communication inaccurately states,

"3. The Grouping of Claims states that claims do not stand or fall together."

" However, there is not discussion in the Arguments section of why EACH claim is considered separately patentable."

THE TRUTH - there is not discussion in the Arguments section of why EACH claim is considered separately patentable

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because there is discussion in the Arguments section of why EACH claim is considered separately patentable.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

**"The Office's notification states,
"d. The statement on Grouping of Claims is improper because it includes arguments as to why certain claims do not stand or fall together. These arguments should be in the Argument section."**

The Appellant has corrected this as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was corrected on page 10 in the Appeal Brief in the ISSUES section, and then on page 11 of the Argument section for 35 U.S.C. 112 (first paragraph), and then on page 62 of the Argument section for 35 U.S.C. 112 (second paragraph), and then on page 72 of the Argument section for 35 U.S.C. 102, and then on page 90 of the Argument section for 35 U.S.C. 103, and then on page 111 of the Argument section for 35 U.S.C. 101, as said Notice stated on page 5.

The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 5 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office Communication once again has a false statement this time ignoring pleadings in the Appeal Brief in the ISSUES section on page 10, and in the Argument section for 35 U.S.C. 112 (first paragraph) on page 11, and in the Argument section for 35 U.S.C. 112 (second paragraph) on page 62, and in the Argument section for 35 U.S.C. 102 on page 72, and in the the Argument section for 35 U.S.C. 103 on page 90, and in the Argument section for 35 U.S.C. 101 on page 111.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because each and every matter of the invention of which this invention is a divisional was already before the Board. The Appellant has a right to be concise, clear and accurate about what is before the Board.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

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Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

THE OFFICE's Ninth FALSE STATEMENT

13. The Office's Communication inaccurately states,

"Not all grounds for rejection have been addressed, e.g., new matter rejection under section 9 of the Final Office Action. "

THE TRUTH - the purported "new matter rejection" was identified and discussed

The Office is wrong for at least seven reasons. First, Appellant respectfully disputes this because the purported "new matter rejection" was identified and discussed on pages 3 and 4 in said Notice.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on pages 3 and 4,

*"The Office's notification states,
"e. The discussion of applicant's contentions in the Argument section is improper. MPEP states, for example, that for each rejection under 35 U.S.C., first paragraph, the argument shall specify the errors in rejection and how said first paragraph is complied with, including as appropriate, how the specification and drawings, if any, a) describe the subject matter defined in each of the rejected claims; b) enable any person skilled in the art to make and use the subject matter defined by each of the rejected claims; and c) set forth the best mode contemplated by the inventor of carrying out the invention. Applicant does not conform to this requirement of cited example of showing how his application complies with the first paragraph"*

Applicant has corrected this, as requested."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to where it was discussed on pages 68 through 78 in the Appeal Brief, as said Notice stated on pages 3 and 4. The meticulous effort of the Appellant was again ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on pages 3 and 4 in said Notice of Sept. 17, 2003 and on pages 68 through 78 in the Appeal Brief. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03, the second Office

Communication once again has a false statement this time ignoring pleadings in the Appeal Brief.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fifth, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 3 and 4.

Seventh, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

THE OFFICE's Tenth FALSE STATEMENT

14. The Office's Communication inaccurately states,

"Since the above deficiencies have been listed in the 8/29/03 Office Action, Applicant's failure to correct them is no longer considered inadvertent."

THE TRUTH - there are no "deficiencies"

THE TRUTH - Applicant did NOT failure to correct them

The Office is wrong for at least six reasons. First, Appellant respectfully disputes this because there are no "deficiencies".

Second, Appellant respectfully disputes this because Applicant did NOT failure to correct them.

Third, Appellant respectfully disputes this because the Office is nonspecific, consistent with confabulation (vide supra, vide infra).

Fourth, Appellant respectfully disputes this because this was discussed on pages 2 though 5 of said Notice.

Fifth, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

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Sixth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, pages 2 through 5.

THE OFFICE's Eleventh FALSE STATEMENT

15. The Office's Communication inaccurately states,

"In addition, it is noted that claim 14 is not included in Appendix A of the revised brief."

THE TRUTH - Exhibits were Submitted and Ignored

The Office is wrong for at least five reasons. First, Appellant respectfully disputes this because the Examiner asked him to correct this.

Second, Appellant respectfully disputes this because Appellant addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 5,

*"The Office's notification states,
"f. Appendix A is incorrect because some claims are recited differently from those finally rejected, e.g., claims 1 and 10."*

The Applicant has put the correct claims in Appendix "A". Appellant attempted to call the Examiner who refused to address this matter to explain what he was speaking of. The Examiner was reminded that this was for the Board. He refused to discuss it.

The claims are those claims before Final. Attached is copies of the Post Cards stamped by the Office proving receipt [Exhibit "B", also Appendix "C"].

Applicant also presented amendments after Final to comply with the Examiner's suggestions/comments. Attached is the Post Card stamped by the Office showing receipt [Exhibit "B"]. This Exhibit proves Amendments were submitted after Final, and were timely received by the Office.

The claims before Final are in Appendix "A".

The amendments submitted after Final are in Appendix "B". "

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commissioner is now directed to Appendix A, as said Notice stated on page 5.

Third, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 5.

Fourth, where is the Office's response to Exhibit "B"?

Fifth, in the light of the above, Appellant notes that this confabulation suggests obstruction of justice under color of law by the Office.

THE OFFICE's Twelfth FALSE STATEMENT and MOSt Chaotic STATEMENT

16. The Office's Communication inaccurately states,

"Also, it is noted that Appendix B is mischaracterized as Amendments Entered After Final. "

"To avoid confusion with the claims under Appeal, Appendix B should be deleted."

THE TRUTH - The Office Has Made Two Opposite Dictates of Appendix B

The Office is wrong for at least four reasons. First, the Office's behavior in this matter is chaotic. As one example, this demand in the Second Communication is opposite the Office's demand in the First Communication.

Second, Appellant respectfully disputes this because Appellant already addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 2,

"The Office's notification states,

"a. The statement of Status of Amendments is improper. Any arguments that the applicant may wish to make regarding these amendments should be discussed in Argument section rather than in this section. There is no Appendix B. contrary to the statement in this section. "

Appellant has corrected the statement of the Status of Amendments.

Appendix B is corrected."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commssioner is now directed to where it was corrected on page 3 in the Appeal Brief, as said Notice stated on page 2: The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03 chaotically and unfairly demands exactly the opposite of the first Office Communication.

Third, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fourth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

THE OFFICE's Twelfth FALSE STATEMENT and MOst Chaotic STATEMENT

16. The Office's Communication inaccurately states,

"Also, it is noted that Appendix B is mischaracterized as Amendments Entered After Final. "

"To avoid confusion with the claims under Appeal, Appendix B should be deleted."

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Second, Appellant respectfully disputes this because Appellant already addressed this matter in the response to the Office in his "Notice of Compliance by Appellant", dated Sept. 17, 2003. In said Notice, the Appellant said on 2,

"The Office's notification states,

"a. The statement of Status of Amendments is improper. Any arguments that the applicant may wish to make regarding these amendments should be discussed in Argument section rather than in this section. There is no Appendix B. contrary to the statement in this section."

Appellant has corrected the statement of the Status of Amendments.

Appendix B is corrected."

["Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2]

In fact, as stated to the Office in said Notice, the Appellant did correct it. Furthermore, to prove this with specificity, attention of the Court, Board, and Commssioner is now directed to where it was corrected on page 3 in the Appeal Brief, as said Notice stated on page 2. The effort of the Appellant was ignored. The Notice was ignored -- despite the fact that it was discussed with specificity on page 2 in said Notice of Sept. 17, 2003. Where is the Office's response? There is no honest or substantive response by the Office, and no accountability in the Office. Instead, the Communication of 11/18/03 chaotically and unfairly demands exactly the opposite of the first Office Communication.

Third, Appellant already made changes because the Office demanded it in the previous first Communication, as discussed above. Appellant took the time and money to make new briefs in triplicate.

Fourth, Appellant respectfully disputes this because NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 2.

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An Example of the OFFICE's Previous Recent False Statements

17. Previously, in the First Office's notification, Mr. Carone was deceptive and wrong. He stated,

"Not ail grounds for rejection of claims are addressed. For example, the examiner rejected new claims 24, 26 and 28 as non enabling because the specification does not describe how and in what manner the claimed redistribution of isotopic fuel causes the so called impact on a fuel impenetrable barrier. This rejection is not specifically addressed in the Appeal Brief, as well as the 35 U.S. C. 103(a) rejection of claims discussed in Section 10 of the Final Office Action, dated 2/3103."

THE TRUTH - the purported "new matter rejection" was identified and discussed

Despite the deliberate false statement of Mr. Carone, as stated in the Notice on page 4, Appellant notes that this was already addressed in the Appeal Brief on especially pages 78 and thereafter, but also extending through and including page 95.

NONE of this has been addressed by the Office in said "Notice of Compliance by Appellant", dated Sept. 17, 2003, page 4.

18. In fact, there are more than fourteen errors by Mr. Carone. If there was a fifty percent likelihood of each error (that is, if it were made innocently by a blind chld), then the fourteen errors have a one in 2 to the 14th power for Mr. Carone and the Office to be innocent. Instead, the data with show that Mr. Carone has been negligent, malicious, and systematic in his obstruction of justice and actions against the US Constitution and Appellant's civil rights.

respectfully submitted,

Mitchell R. Swartz, ScD, MD, Appellant, *pro se*

CERTIFICATE OF MAILING [37 CFR 1.8(a)]

November 23, 2003

To Whom it Does Concern:

I hereby certify that this correspondence will be deposited with the United States Postal Service by First Class Mail, postage prepaid, in an envelope addressed to

"Office of the Clerk

Board OF PATENT APPEALS

c/o The Commissioner for Patents

Alexandria, VA 22313-1450" on the date below.

Thank you.

Sincerely,

November 23, 2003

M.R. Swartz